IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 8486 of 2005

Between:

1 S.Srinivas Reddy S/o.S.Bangaru Reddy
R/o.D.No.41-12-14, Krishna Lanka, Vijayawada Post, Krishna District.
2 S.Venkat Reddy S/o.S.Bangaru Reddy
R/o.D.No.41-12-14, Krishna Lanka, Vijayawada Post, Krishna District.

..... PETITIONERS

AND

1 The Vice-Chairman, V.G.T.M., VUDA, Vijayawada
2 The Planning Officer Vijayawada, Guntur Tenali,
Managalagiri Town Development Planning Office, Vijayawada, Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction in the nature of Mandamus declaring the action of the respondents in trying to demolish the compound wall constructed by the petitioners in the house site measuring 225.83 Sq.yards in R.C.No.495/3 and A of Gollapudi Village, Vijayawada Rurual Krishna District, without examining the explanation of the petitionersdt.3.4.2005, to their show cause notice in Rc.No.C5/2504/2004 dt.29.3.2005 under Section 42 (1) and 43(1) of A.P.Urban Area Development Act of 1975 and during the pendency of I.A.No.1036 of 2004 in O.S.No.3627 of 2004 on the file of the IV Addl.Junior Civil Judge, Vijayawda as being illegal, unjust, arbitrary and violative of Articles 14 and 21 of the constitution of India and pass such other order or orders.

Counsel for the Petitioners: MR.E.V.BHAGIRATHA RAO

Counsel for the Respondents: MR.P.M.GOPALA KRISHNA

The Court at the admission stage made the following :

O R D E R:

This writ petition is filed seeking a declaration that the alleged action of the respondents in trying to demolish the compound wall constructed by the petitioners in the house site measuring 225.83 sq. yards in R.C.No.495/3 and A of Gollapudi Village, Vijayawada Rural, Krishna District, is arbitrary and illegal.

As can be seen from the material on record, O.S.No.3625 of 2004 filed by the petitioners on the file of IV Additional Junior Civil Judge, Vijayawada, seeking permanent injunction in respect of the said premises is pending and the trial Court has passed an order of status quo on 03-11-2004. The 1st respondent-Corporation is the 3rd defendant in the said suit. However, subsequently the second respondent issued a show-cause notice dated 29-03-2005 under Sections 42(1) and 43(1) of the Andhra Pradesh Urban Area Development Act, 1975, calling upon the petitioners to show cause as to why the structure-in-question should not be removed.

The petitioners state that they have already submitted their explanation bringing to the notice of the respondents that the suit is pending and the order of status quo is in operation.

The grievance of the petitioners is that the respondents failed to consider their explanation and that even without passing any final orders they are proceeding to remove the structure-in-question. Hence, this Writ Petition.

Heard the learned counsel for the petitioners and the learned standing counsel appearing for the respondents.

Since the petitioners submitted their explanation to the show-cause notice dated 29.03.2005, the respondents are required to consider the same and pass appropriate orders in accordance with law before resorting to any coercive steps against the petitioners.

In the circumstances, without expressing any opinion on merits, I deem it appropriate to dispose of the writ petition with a direction to the respondents not to resort to demolition of the structure-in-question without passing any final order based on the show cause notice dated 29-03-2005, if not already passed. No costs.

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(G.ROHINI, J)

Date: 19-04-2005

ghn

To

1 The Vice-Chairman, V.G.T.M., VUDA, Vijayawada

2 The Planning Officer Vijayawada, Guntur Tenali,
Managalagiri Town Development Planning Office, Vijayawada, Krishna District.

3 Two CD copies.

THE HON'BLE MS. JUSTICE G. ROHINI

WRIT PETITION NO.8486 OF 2005

OPERATIVE PORTION (BY WIRE):

The writ petition is accordingly disposed of with a direction to the respondents not to resort to demolition of the structure-in-question without passing any final order based on the show cause notice dated 29-03-2005, if not already passed. No costs.

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(G.ROHINI, J)

Date: 19-04-2005

Note:

1. Issue wire at party's costs.
2. Please send the bundle to the Court Masters Section after dispatch of the wire order.

B/o

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